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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,685	06/21/2001	Barry H. Schwab	FNI-02204/03	8645

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EXAMINER	
CZEKAJ, DAVID J	

ART UNIT	PAPER NUMBER
2613	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/886,685	SCHWAB ET AL.	
	Examiner	Art Unit	
	Dave Czekaj	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 15-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 June 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: On page 1, the examiner notes that application number 09/305,953 has now become US-6,370,198.

Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,370,198 (Washino). Although the conflicting claims are not identical, they are not patentably distinct from each other because it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying the audio/video production system of the present application by incorporating the teaching of US Patent No. 6,370,198 B1. The motivation for performing such modification in the present

application is to improve the processing capability and to increase the data transfer as taught by Washino (Column 6, Lines 61-67).

Claims 2-14 are rejected by dependency on claim 1 .

Response to Arguments

4. Applicant's arguments with respect to claims 1-13 and 15-18 have been considered but are moot in view of the new ground(s) of rejection. Furthermore, the examiner notes that the proposed amendment is more than just the movement/cancellation of claim 14 since not all limitations from claim 14 are presently found in the corresponding independent claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw et al. (6356945), (hereinafter referred to as "Shaw") in view of Hung et al. (6542198), (hereinafter referred to as "Hung").

As for claims 1,7, 10, 13, 15-16, and 18, Shaw teaches of an audio/video production system that comprises of a high-speed serial input for receiving an audio/video program and having an input format and an input frame rate (Note: high speed small computer system interface, Column 8, Lines 53-56)., a serial-to-parallel converter in communication with the input for outputting the program

onto a data bus (Note: converted from serial to parallel and decode the appropriate header, Column 8, Lines 31-35); a high capacity read/write medium interfaced to the data bus for storing at least a portion of the audio/video program and a format converter interfaced to the data bus for outputting the audio/video program with an output format and output frame rate (Note: the video bus interconnects the frame memory with such components at the capture processor and the display processor (i.e. format converter), Column 7, Lines 22-28)., a format converted interfaced to the data bus for outputting the audio/video program over a high-speed serial network (Column 3, Lines 20-32),. and the equipment enables multiple users to access or manipulate the audio/video program (Note: the devices would interconnect with the multimedia communications assembly to allow the user/operator to control, complement and utilize the functions of the electronic devices by means of the multimedia communications assembly, column 3, Lines 15-20). However, Shaw lacks the input or output frame rate being 24 frames-per-second or any integer multiple or fraction as claimed. Hung teaches that frames appear as continuous motion to the human eye when displayed at a minimum rate of 24 frames/second (Hung: column 1, lines 13-15). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Shaw and add the frame rate taught by Hung in order to obtain an apparatus that can correctly display motion video to a user.

As for claims 2 and 6, the use of a high-speed serial input conforming to the

IEEE standard is considered as inherent and obvious to one of ordinary skill in the art because of its universal use as a high data throughput device.

As for claims 3-5, Shaw teaches of an input in an enhanced or high definition format (Column 3, Lines 40-54); wherein the program is output in an MPEG or Motion-JPEG format (Column 14, Lines 1-15); wherein the program is output in a high-speed serial form (Note: the small computer interface is readily available and capable of providing high speed interface between the internal system bus and the external host, Column 15, Lines 41-44).

As for claims 8-9, and 17, Shaw teaches of equipment that facilitates streaming video (i.e. in real time) over the Internet or other network (Column 8, Lines 66-67 and Column 9, Lines 1-10); and wherein the equipment provides archival storage (i.e. old frames) of the audio/video program (Column 11, Lines 32-41).

As for claims 11-12, and 14, Shaw teaches of multiple format converters, each interfaced to the data bus (Column 3, Lines 40-54); a digital effects unit for manipulation of the audio and/or video portions of the program (Column 3, Lines 15-20, and Column 14, Lines 12-16); wherein the input and output frame rates are 24, 25, or 30 frames-per-second, or any integer multiple or integer fraction thereof (Column 6, Lines 23-27).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Monday - Friday 9 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHRIS KELLEY
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